

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:  
**Victor Rawlings**

Case No. 08-81946  
Chapter 13

Social Security No. xxx-xx-6718  
Address: 5802 Stardust Court, Durham, NC 27712-

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Debtor

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**MOTION TO MODIFY PLAN**

**NOW COMES the Debtor**, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on December 17, 2008, with the Chapter 13 plan being subsequently confirmed on April 8, 2009.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:  
  
From:           \$2,387.00 per month.  
  
To:             \$2,387.00 per month through July 2011, followed thereafter by \$1,593.00 per month, starting in August 2011.
3. The changed circumstances that justify the proposed modification are as follows:
  - a. The Debtor has been diagnosed with Post Traumatic Stress Disorder (PTSD) and is no longer able to work.
4. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
5. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.
6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Change in dividend to unsecured creditors.
  - b. Change in length of plan.
  - c. Change in equal monthly payment to Capital One/NCM from \$210.27 to \$79.00.

**Appended Application for an Additional Attorney Fee**

7. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.
8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(a), for approval reimbursement for the cost of mailing this Motion to all parties in interest in the amount of \$0.50 per motion for thirty-five (35) creditors, or total expenses of \$17.50.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$267.50 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: August 2, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward C. Boltz

Edward C. Boltz

North Carolina State Bar No.: 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

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**CERTIFICATE OF SERVICE**

I, Dawn DeFrangé, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on August 2, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Victor Rawlings  
5802 Stardust Court,  
Durham, NC 27712-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Dawn DeFrangé  
Dawn DeFrangé

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:  <b>Married</b>	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S): <b>Daughter</b>	AGE(S): <b>16</b>
Employment:	DEBTOR	SPOUSE
Occupation	<b>Retired</b>	<b>Program Technician</b>
Name of Employer		<b>Durham VA Medical Center</b>
How long employed		
Address of Employer		<b>508 Fulton Street Durham, NC 27705</b>

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)  
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <u>0.00</u>	\$ <u>3,319.33</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

## 3. SUBTOTAL

\$ <u>0.00</u>	\$ <u>3,319.33</u>
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## 4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security  
b. Insurance  
c. Union dues  
d. Other (Specify): \_\_\_\_\_

\$ <u>0.00</u>	\$ <u>494.22</u>
\$ <u>0.00</u>	\$ <u>121.81</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

## 5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <u>0.00</u>	\$ <u>616.03</u>
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## 6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <u>0.00</u>	\$ <u>2,703.30</u>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)  
8. Income from real property  
9. Interest and dividends  
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above  
11. Social security or government assistance (Specify): \_\_\_\_\_

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

## 12. Pension or retirement income

## 13. Other monthly income

(Specify): **VA Disability**

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>1,551.70</u>	\$ <u>0.00</u>
\$ <u>460.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

## 14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <u>2,011.70</u>	\$ <u>0.00</u>
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## 15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <u>2,011.70</u>	\$ <u>2,703.30</u>
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## 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <u>4,715.00</u>
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(Report also on Summary of Schedules and, if applicable, on  
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:  
**None Anticipated**

## SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

<p>1. Rent or home mortgage payment (include lot rented for mobile home) <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">a. Are real estate taxes included? Yes <u>X</u> No <u>    </u></p> <p style="margin-left: 20px;">b. Is property insurance included? Yes <u>X</u> No <u>    </u></p> <p>2. Utilities: <span style="float: right;">\$ <u>238.50</u></span></p> <p style="margin-left: 20px;">a. Electricity and heating fuel <span style="float: right;">\$ <u>98.00</u></span></p> <p style="margin-left: 20px;">b. Water and sewer <span style="float: right;">\$ <u>63.00</u></span></p> <p style="margin-left: 20px;">c. Telephone <span style="float: right;">\$ <u>301.00</u></span></p> <p style="margin-left: 20px;">d. Other <u>See Detailed Expense Attachment</u> <span style="float: right;">\$ <u>30.00</u></span></p> <p>3. Home maintenance (repairs and upkeep) <span style="float: right;">\$ <u>626.00</u></span></p> <p>4. Food <span style="float: right;">\$ <u>160.00</u></span></p> <p>5. Clothing <span style="float: right;">\$ <u>39.00</u></span></p> <p>6. Laundry and dry cleaning <span style="float: right;">\$ <u>180.00</u></span></p> <p>7. Medical and dental expenses <span style="float: right;">\$ <u>402.00</u></span></p> <p>8. Transportation (not including car payments) <span style="float: right;">\$ <u>57.00</u></span></p> <p>9. Recreation, clubs and entertainment, newspapers, magazines, etc. <span style="float: right;">\$ <u>100.00</u></span></p> <p>10. Charitable contributions <span style="float: right;">\$ <u>    </u></span></p> <p>11. Insurance (not deducted from wages or included in home mortgage payments) <span style="float: right;">\$ <u>22.50</u></span></p> <p style="margin-left: 20px;">a. Homeowner's or renter's <span style="float: right;">\$ <u>60.00</u></span></p> <p style="margin-left: 20px;">b. Life <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">c. Health <span style="float: right;">\$ <u>170.00</u></span></p> <p style="margin-left: 20px;">d. Auto <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">e. Other <u>    </u> <span style="float: right;">\$ <u>    </u></span></p> <p>12. Taxes (not deducted from wages or included in home mortgage payments) <span style="float: right;">\$ <u>20.00</u></span></p> <p style="margin-left: 20px;">(Specify) <u>Personal Property Taxes</u></p> <p>13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan) <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">a. Auto <span style="float: right;">\$ <u>250.00</u></span></p> <p style="margin-left: 20px;">b. Other <u>Non-Filing Spouse's Credit Card Payments</u> <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">c. Other <u>    </u> <span style="float: right;">\$ <u>0.00</u></span></p> <p>14. Alimony, maintenance, and support paid to others <span style="float: right;">\$ <u>0.00</u></span></p> <p>15. Payments for support of additional dependents not living at your home <span style="float: right;">\$ <u>0.00</u></span></p> <p>16. Regular expenses from operation of business, profession, or farm (attach detailed statement) <span style="float: right;">\$ <u>1,898.00</u></span></p> <p>17. Other <u>See Detailed Expense Attachment</u> <span style="float: right;">\$ <u>    </u></span></p> <p>18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.) <span style="float: right; border: 1px solid black; padding: 2px;">\$ <u>4,715.00</u></span></p> <p>19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:</p> <p style="margin-left: 20px;"><u>None Anticipated</u></p> <p>20. STATEMENT OF MONTHLY NET INCOME <span style="float: right;">\$ <u>4,715.00</u></span></p> <p style="margin-left: 20px;">a. Average monthly income from Line 15 of Schedule I <span style="float: right;">\$ <u>4,715.00</u></span></p> <p style="margin-left: 20px;">b. Average monthly expenses from Line 18 above <span style="float: right;">\$ <u>0.00</u></span></p> <p style="margin-left: 20px;">c. Monthly net income (a. minus b.) <span style="float: right;">\$ <u>    </u></span></p>	<div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><b>\$ 4,715.00</b></p> </div>
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In re Victor Rawlings

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Expense Attachment**

**Other Utility Expenditures:**

	\$	63.00
Cablevision	\$	175.00
Cellular Phone	\$	63.00
Internet	\$	
<b>Total Other Utility Expenditures</b>	<b>\$</b>	<b>301.00</b>

**Other Expenditures:**

	\$	58.00
Personal Care	\$	50.00
Daughter's School Activities	\$	1,593.00
Chapter 13 Plan Payment	\$	98.50
Emergency	\$	98.50
Miscellaneous	\$	
<b>Total Other Expenditures</b>	<b>\$</b>	<b>1,898.00</b>

# CH. 13 PLAN - DEBTS SHEET

(MIDDLE DISTRICT - STEP PLAN)

Date: 7/26/11  
 Lastname-SS#: Rawling-6718 MTM

## RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

Creditor Name	Sch D #	Description of Collateral

## SURRENDER COLLATERAL

Creditor Name	Description of Collateral

## ARREARAGE CLAIMS ON RETAINED COLLATERAL

Creditor Name	Sch D #	Arrearage Amount
Wells Fargo Bank		\$2,964

## REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Description of Collateral

## LTD - DOI on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Wells Fargo Bank		\$1,347	n/a	n/a	\$1,347	
			n/a	n/a		
			n/a	n/a		

## STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			7.00			
			7.00			
			7.00			
			7.00			

## STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
National Capital		\$2,618	5.25	\$26	\$79	01 Mercury
			7.00			
			7.00			
			7.00			
			7.00			

## ATTORNEY FEES (Unpaid Part)

Law Offices of John T. Orcutt, P.C. \$250

## SECURED TAXES

IRS Tax Liens  
 Real Property Taxes on Retained Realty

## UNSECURED PRIORITY DEBTS

IRS Taxes  
 State Taxes  
 Personal Property Taxes  
 Alimony or Child Support Arrearage

## COSIGN PROTECT (Pay 100%)

All 'Co-Sign Protect Debts (See\*\*\*)

## GENERAL NON-PRIORITY UNSECURED

DMT = None(\$0)

## PROPOSED CHAPTER 13 PLAN

\$ 1593 /month for 36 months, then  
 \$ N/A /month for N/A months.\*\*

## Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMI x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

Final MD Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

## Other Miscellaneous Provisions